

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LARRY LYNN COLLINS, )  
Petitioner, )  
v. ) CIV-04-289-R  
JUSTIN JONES, )  
Respondent. )

**O R D E R**

Before the Court are the Report and Recommendation of United States Magistrate Judge Bana Roberts entered October 31, 2005 and Petitioner's Objection to the Report and Recommendation filed November 18, 2005. Petitioner objects to the Magistrate Judge's conclusions as to each of his four claims. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court reviews the Report and Recommendation *de novo* in light of Petitioner's objections.

Petitioner's convictions do not violate double jeopardy under the *Blockburger* test because each of the offenses of which Petitioner was convicted required proof of at least one element that the other did not. *See Blockburger v. United States*, 284 U.S. 299, 304, 52 S.Ct. 186, 76 L.Ed.2d 306 (1932). The overt act requirement of the conspiracy offense did not require proof of each of the elements of the offense of possession of anhydrous ammonia in an unauthorized container.

The Court agrees with the Magistrate Judge that Petitioner has failed to show that his Sixth Amendment confrontation rights were violated because he has failed to present any evidence of J.E.C.'s prior juvenile adjudications, much less shown that had such evidence

been admitted, it “would have created a reasonable doubt that did not exist without the evidence.” *Patton v. Mullin*, 425 F.3d 788, 797 (10<sup>th</sup> Cir. 2005) (citing *United States v. Valenzuela-Beroal*, 458 U.S. 858, 868, 102 S.Ct. 3440, 73 L.Ed.2d 1193 (1982)). Moreover, this Court concludes that Petitioner has not shown that the trial court’s restriction on the extent of cross-examination deprived Petitioner of a fair trial.

Finally, the Court agrees with the Magistrate Judge’s analyses and conclusions as Petitioner’s claims regarding the sufficiency of the evidence and prosecutorial misconduct. Petitioner’s objections to the Magistrate Judge’s conclusions are without merit.

In accordance with the foregoing, the thorough and well-reasoned Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety and the petition of Justin Jones for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is DENIED.

It is so ordered this 22<sup>nd</sup> day of November, 2005.



DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE